

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 2ND MARCH 2007 / 11TH PHALGUNA 1928

WP(C).No. 2932 of 2006(Y)

PETITIONER:

OUSEPH ULAHANNAN, S/O.OUSEPH, AGED 72
YEARS, RESIDING AT CHERATHU, KALLARA (VAIKOM),
KALLARA SOUTH P.O., KOTTAYAM DISTRICT.

BY ADV. SRI.B.GOPAKUMAR
SMT.CHINCY GOPAKUMAR
SRI.ASWIN GOPAKUMAR
SRI.ANWIN GOPAKUMAR

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO LOCAL SELF GOVERNMENT (J) DEPARTMENT,
GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.
2. R.INDIRA DEVI, UNDER SECRETARY,
LOCAL SELF GOVERNMENT (J) DEPARTMENT, GOVERNMENT
OF KERALA, THIRUVANANTHAPURAM.
3. KALLARA GRAMA PANCHAYATH, REPRESENTED BY
ITS SECRETARY, KALLARA SOUTH P.O., KOTTAYAM DIST.
4. S.BIJU, SECRETARY, KALLARA GRAMA
PANCHAYATH, KALLARA SOUTH P.O., KOTTAYAM DISTRICT.
5. THE DEPUTY DIRECTOR OF PANCHAYATHS,
KOTTAYAM.
6. THE PRESIDENT, KALLARA GRAMA PANCHAYATH,
KALLARA P.O.

BY ADV. SRI.V.RAJENDRAN (PERUMBAVOOR)(R3)
SRI.GEORGE VARGHESE KIZHAKKAMBALAM
SRI.V.K.SUNIL(R6)
G.P. SRI.K.J.MOHAMMED ANSAR(R1 & R5)

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 02/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

- P1 SKETCH PREPARED BY THE VILLAGE OFFICER DT.22.12.03.
- P2 JUDGMENT DT.4.6.03 IN OP.13531/03.
- P3 JUDGMENT IN WPC.17826, 23440 & 26046/03 DT.27.10.03.
- P4 INTERIM ORDER DT.6.11.03 IN WA.1798/03.
- P5 ORDER DT.5.11.90 ISSUED BY DEPUTY DIRECTOR OF PANCHAYATS.
- P6 INTERIM ORDER DT.6.4.04 IN WPC.11069/04.
- P7 JUDGMENT IN WPC.11069/04 DT 25.5.04.
- P8 FORM NO.III-NO.1/04-05.
- P9 APPLICATION DT.6.4.05.
- P10 RECEIPT DT 6.4.05.
- P11 MINUTES BOOK DT 14.12.05.
- P12 LETTER DT 5.1.06.
- P13 NOTICE DT 20.1.06.

RESPONDENTS' EXHIBITS:

- R1(A) GO(P)NO.52/04/LSGD DT.5.2.04.

TRUE COPY

P.A. TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) No. 2932 OF 2006

Dated this the 2nd day of March, 2007

JUDGMENT

Mr. V.K. Sunil Kumar, counsel for the Panchayat and its President submits that on the legal question raised in the Writ Petition whether it was proper and legal on the part of the Secretary to have communicated with the Government without informing the President, the Committee is in agreement with the petitioner. The 4th respondent-Secretary and the Committee have no objection in issuing licence to the petitioner since the Panchayat does not have any other market and also since the petitioner's market was in existence for about more than five decades. Considering these submissions, Ext.P12 will stand quashed and there will be a direction to the 3rd respondent to issue licence to the petitioner for the conduct of the market. I find that the issue raised is covered by the judgment reported in **Maheswari V. Alappuzha Municipality** [2003 (1) KLT 833]. The proceedings before the Tribunal, initiated on the basis of the reference made by the government covered by Ext.P13 are also quashed.

The Writ Petition is disposed of as above.

PIUS C. KURIAKOSE, JUDGE

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